

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RAMONE KNOX,

Plaintiff,
v.

Case No. 12-12273
Hon. Patrick J. Duggan

WARREN POLICE
DEPARTMENT, *et al.*,

Defendant.

_____ /

OPINION AND ORDER ADOPTING REPORT AND RECOMMENDATION

On May 24, 2012, Plaintiff, a prisoner currently confined in Waymart, Pennsylvania, filed this *pro se* 28 U.S.C. § 1983 lawsuit against Defendants Warren Police Department and “three unknown named Warren police officers[,]” claiming violations of his Fourth, Eighth, and Fourteenth Amendment rights. (Compl., ECF No. 1.) On August 15, 2012, Warren Police Department filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). (ECF No. 8.) On September 7, 2012, Plaintiff filed a motion in opposition to Warren Police Department’s motion. (ECF No. 13.) This Court referred the lawsuit to Magistrate Judge Michael Hluchaniuk on September 10, 2012, for all pretrial matters proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B).

On January 24, 2013, Magistrate Judge Hluchaniuk filed a Report and Recommendation (R&R) recommending that this Court grant the motion to dismiss with

respect to Defendant Warren Police Department but that it deny the motion to dismiss as to any individual John Doe defendants. (ECF No. 22.) The R&R relies on the authority granted under 28 U.S.C. § 1915A to screen complaints filed by prisoners, such as this one, where the “prisoner seeks redress from a government entity or officer or employee of a governmental entity[.]” and to dismiss such complaints which fail to state a claim upon which relief may be granted. 28 U.S.C. § 1915A(a)-(b)(1). Even when construing the complaint liberally, Magistrate Judge Hluchaniuk determined that Plaintiff’s Complaint failed to state a viable municipal liability claim against the City of Warren. With respect to the individual John Doe defendants, Magistrate Judge Hluchaniuk noted that although the Complaint “is admittedly sparse in specifics[.]” “it satisfies the minimum requirements for the court’s screening function under § 1915A.” (R&R 7, ECF No. 22.)

At the conclusion of the R&R, Magistrate Judge Hluchaniuk advises the parties that they may object to and seek review of the R&R within fourteen (14) days of service upon them. (*Id.* at 7.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*) Although Plaintiff filed a Motion for Extension of Time to File Objections on February 11, 2013, (ECF No. 23), which the Court granted on February 13, 2013, (ECF No. 24), Plaintiff did not file objections before the extension expired on April 12, 2013.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Hluchaniuk.

Accordingly,

IT IS ORDERED that Magistrate Judge Hluchaniuk's R&R is adopted and Warren Police Department's motion to dismiss is **GRANTED** as to it but is **DENIED** as to any individual John Doe defendants;

IT IS FURTHER ORDERED that Plaintiff has until September 16, 2013 to file an amended complaint identifying the three remaining John Doe defendants or the action will be **DISMISSED** pursuant to Federal Rule of Civil Procedure 4(m).

Date: June 12, 2013

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

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